

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CARMEN CARTER,
Plaintiff

vs

THE E.W. SCRIPPS COMPANY,
Defendant

Case No. C-1-00-977
(Weber, J.)
(Hogan, M.J.)

ORDER

This matter is before the Court on Plaintiff's Motion for Appointment of Counsel (Doc. 64). To date, Defendant has filed no response to Plaintiff's motion.

On November 12, 2003, the Court issued a Report and Recommendation recommending that summary judgment be granted in Defendant's favor. (*See* Doc. 56). Thereafter, on December 15, 2003, the District Court adopted this Court's Report and Recommendation granting summary judgment in favor of Defendant. (*See* Doc. 57).

Appointment of counsel in civil cases is not a constitutional right. *Lavado v. Keohane*, 992 F.2d 601, 605 (6th Cir. 1993). "It is a privilege that is justified only by exceptional circumstances." *Id.* at 606 (citations omitted). "In determining whether 'exceptional circumstances' exist, courts have examined 'the type of case and the abilities of the plaintiff to represent himself.'" *Id.* (Citation omitted).

Appointment of counsel pursuant to 28 U.S.C. § 1915(d) is not appropriate when a pro se litigant's claims are frivolous ..., or when the chances of success are extremely slim.

Id. (Citations omitted).

In the instant case, Plaintiff has not demonstrated that exceptional

circumstances exist or that this is the type of case where she will be unable to represent herself. Indeed, Plaintiff has proceeded pro se for over two years in this litigation and in the litigation of her companion case, *Carter v. E.W Scripps Company*, Case No. C-1-00cv739 (Spiegel, J.). Moreover, for the reasons stated in the Court's Report and Recommendation recommending that summary judgment be granted in Defendant's favor (Doc. 56), Plaintiff's claims lack merit. This factor also weighs against appointment of counsel. *See Leon v. Fed. Reserve Bank of Chicago*, 823 F.2d 928, 930 (6th Cir. 1987). Plaintiff remains free to file a motion in the Court of Appeals for the appointment of counsel. *See* 28 U.S.C. § 1915(c).

Accordingly, the Court hereby ORDERS that Plaintiff's Motion for Appointment of Counsel (Doc. 64) be DENIED.

SO ORDERED.

Date: 10/7/04

s/Timothy S. Hogan
Timothy S. Hogan
United States Magistrate Judge